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Message Text

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AMEMBASSY LONDON
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C O N F I D E N T I A L STATE 224773

E.O. 11652: GDS

TAGS: PFOR, PGOV, WB, GW, UK, US, FR

SUBJECT: TAKEOVER IN BERLIN OF ANTITERRORISM LAW

REF: BONN 15068; USBERLIN 1854; BONN 14934; USBERLIN 1737;
USBERLIN 1875; BONN 15260; USBERLIN 1750

1. DEPT APPRECIATES WELL REASONED ARGUMENTS FROM EMBASSY
AND MISSION CONCERNING THE POSITION ALLIES SHOULD ADOPT
REGARDING THE TAKEOVER IN BERLIN OF THE FRG ANTI-TERRORISM
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LAW.

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2. ON BALANCE, WE BELIEVE THAT THE COURSE OF ACTION RECOMMENDED BY THE BONN GROUP (BONN 15260) IS PROPER. FOREMOST IN OUR THINKING IS THE CONSIDERATION THAT THE AREA OF THE COMPETENCIES OF FEDERAL COURTS AND THE FEDERAL PROSECUTOR WE ARE VERY CLOSE TO THE LINE ON THE EXERCISE OF FRG STATE AUTHORITY IN BERLIN, AND THUS MUST RELY WHOLLY ON THE "EXISTING SITUATION" ARGUMENT. WHILE WE HAVE SYMPATHY WITH THE FRG'S DESIRE FOR LEGAL UNITY, IT SEEMS TO US THAT IT IS ALSO IN THE FRG'S INTEREST THAT THIS ARGUMENT, WHICH FOR EXAMPLE PROVIDED THE RATIONALE FOR ALLIED APPROVAL OF FEDERAL PROSECUTION OF THE LORENZ KIDNAPPERS IN BERLIN, NOT BE WEAKENED.

3. WE BELIEVE IT IMPORTANT THAT THIS DECISION BE MADE AS PALATABLE FOR GERMANS AS POSSIBLE, AND THAT A MAXIMUM EFFORT BE MADE TO SEEK THEIR UNDERSTANDING FOR THE ALLIED POSITION. FOR EXAMPLE, WE BELIEVE IT WOULD NOT BE OPPORTUNE TO USE THIS OCCASION TO TIGHTEN FORMAL REQUIREMENTS ON THEM TO INFORM ALLIES IN ADVANCE OF CASES IN WHICH FEDERAL PROSECUTION MAY BE CONTEMPLATED (USBERLIN 1750). WE CONCUR WITH BONN GROUP (PARA 8 BONN 15260) THAT EXPRESS RESERVATION TO THE ALLIES IN THE BK/O OF THE RIGHT TO DETERMINE IN PARTICULAR CASE THE APPROPRIATE AUTHORITY FOR CONDUCT OF A PROSECUTION

WOULD BE UNDESIREABLE.

5. DEPT CONCURS WITH RECOMMENDATION PARA 10, BONN 15260. USBERLIN SHOULD DRAFT NECESSARY BK/O IN CONJUNCTION WITH OTHER MISSIONS. KISSINGER

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